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FISCAL IMPACT STATEMENT

LS 6247

BILL NUMBER: HB 1155

NOTE PREPARED: Nov 17, 2005

BILL AMENDED:

SUBJECT: Child Molesting.

FIRST AUTHOR: Rep. Budak

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Lifetime Parole and Monitoring Devices: It provides that a person convicted of child molesting must be: (1) placed on lifetime parole when the person's term of imprisonment is completed; and (2) required to wear a GPS monitoring device.

Monitoring Devices for Sex Offenders: The bill allows the parole board to require parolees who are sex and violent offenders to wear a GPS monitoring device.

Violation of Lifetime Parole: It provides that a person who violates a condition of lifetime parole after committing two previous parole violations or after having completed the person's sentence (including any credit time) commits a Class D felony, and that the violation is a Class C felony or Class B felony if the person has a prior unrelated conviction or if the violation involves contact with a child or a victim of the child molesting for which the person was convicted.

Convictions in Another State: It specifies that a person convicted of child molesting in another state whose parole is transferred to Indiana is required to be placed on lifetime parole.

Supervision: It provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board.

Enhanced Penalty for Child Molesting: The bill makes child molesting committed by performing or submitting to sexual intercourse or deviate sexual conduct a Class A felony (instead of a Class B felony). It makes child molesting committed by fondling or touching a child a Class B felony (instead of a Class C felony).

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Lifetime Parole:* The bill will increase parole supervision costs for offenders convicted of child molesting who are released from state incarceration. Under current law, a sex offender may be assigned parole supervision for up to ten years. Under the bill, when released from a term of incarceration, a parolee who has been convicted of child molesting will be placed on parole for the remainder of the person's life.

Supervision: Moreover, the bill would allow the parole board to choose to also supervise offenders who are assigned to probation, community corrections, or community transition programs or to permit the other agency to exercise all or part of the parole supervision responsibility. The number of offenders receiving simultaneous supervision of the parole board and another agency is indeterminate and will be based on the decisions of the parole board.

Background on Lifetime Parole: Based on release information from calendar year 2003 and 2004, on average, 469 offenders convicted of child molesting are released from prison each year. Of these, the majority are placed on parole (48.6%) or probation (38.8%), while others are released to community transition programs (6.0%) or serve the maximum sentence (6.6%). On average for the two years reviewed, offenders were released at 38 years of age. Assuming the average age of these offenders at death is 77 years old, lifetime parole would mean 39 years of supervision on average. Assuming that offenders convicted of child molesting already receive parole supervision for 10 years, about 228 offenders a year would receive additional parole supervision of about 29 years on average.

There are no financial data available to indicate the average cost of parole supervision. Currently, there are eight district offices with 127 employees including parole officers, parole supervisors, substance abuse counselors, and support staff. The combined salary for these employees is about \$4.0 M, and the average annual parole population for FY 2005 was 5,759. Given the effective date of the bill and assuming that offenders would otherwise have received 10 years of parole, lifetime parole will increase the parole population beginning in 2016. All other things remaining equal, at a minimum, parole capacity will have to increase for 6,612 additional parolees by 2035 for the 48.6% of these offender who would have been sentenced to parole.

Monitoring Devices: The bill will increase costs for monitoring offenders convicted of child molesting. The bill would permit any sex offender and require every child molesting offender to wear a monitoring device. There are a variety of monitoring systems that fit the requirements for monitoring in IC 35-38-2.5-3 and that would work in different geographic locations. The cost of monitoring will vary based on the type of device required. As an example of the difference in cost, the daily cost of a radio frequency device that monitors offenders in their homes is \$1.30 in Marion County, while the cost of a global positioning satellite system is \$5.00 per day for a passive system and \$10.00 for active or 24-hour continuous monitoring. Continuous monitoring (not necessarily required) could increase costs for staff to allow for monitoring and response or to provide for more flexible working schedules.

Violation of Lifetime Parole: There are no data available to indicate how many offenders on lifetime parole would be convicted of the Class D felony created under the bill for knowingly or intentionally violating the

conditions of lifetime parole if the person's lifetime parole had been revoked two or more times, or if the person has completed the term of sentence. The offense may be increased to a Class C felony or a Class B felony based on prior unrelated convictions or if the violation involves a child under 16 years of age or the victim of the child molesting offense. Information about sentences for the crime classes, the average length of prison stay, and prison costs are shown below.

Enhanced Penalty for Child Molesting: State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. Under current law, a person who performs or submits to sexual intercourse or deviate sexual conduct with a child under 14 years of age commits child molesting, a Class B felony, or in certain circumstances, a Class A felony. Under the bill, all crimes under this section would be a Class A felony. The bill also increases the penalty for performing or submitting to any fondling or touching with a child under the age of 14 years. Under current law, this form of child molesting is a Class C felony, or, depending on the circumstance, may be a Class A felony. Under the bill, the offense would be a Class B felony, but could be elevated to a Class A felony as before.

Depending upon mitigating and aggravating circumstances, a Class A felony is punishable by a prison term ranging from 20 to 50 years, a Class B felony is punishable by a prison term ranging between 6 to 20 years, a Class C felony is punishable by a prison term ranging between 2 to 8 years, and a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor. The average length of stay in Department of Correction (DOC) facilities for all Class A felony offenders is approximately 9.1 years, for all Class B felony offenders is approximately 3.7 years, for all Class C offenders is approximately two years, and for all Class D felony offenders is approximately 10 months. More offenders could mean increased costs to the DOC.

The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$59,574, with the costs ranging from a low of \$52,420 to a high of \$77,674.

Since these offenders would have a later date of release, enhancing child molesting from a Class B felony to a Class A felony and from a Class C felony to a Class B felony, and increasing the penalty for failing to register as a sex offender from a Class C or D felony to a Class B felony could increase the number of beds needed if no other change occurs. On average between FY 2000 and FY 2004, there were 7 people a year committed for failing to register as a sex offender, 154 offenders a year committed to DOC facilities for Class B felony child molesting, and 295 people a year committed to DOC facilities for Class C felony child molesting. Based on the commitment data reported by the Department of Correction and an effective date of July 1, 2006, an additional 20 beds would be needed for DOC facilities by 2007, another 502 beds would be needed by 2008, and 832 additional beds would be needed for DOC facilities by 2010.

Explanation of State Revenues: *Parole Violations and Enhanced Penalty for Child Molesting:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B, Class C, and Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in

a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Parole Violations and Enhanced Penalty for Child Molesting:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Parole Violations and Enhanced Penalty for Child Molesting:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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